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10/773,064

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B. Alex Robinson

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EXAMINER

MAPA, MICHAEL Y

ART UNIT

PAPER NUMBER

2617

NOTIFICATION DATE

DELIVERY MODE

07/06/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/773,064	Applicant(s) ROBINSON ET AL.	
	Examiner Michael Mapa	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-7,9-11,15-18,20-22,26-29 and 31-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-7,9-11,15-18,20-22,26-29 and 31-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 11/3/09 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent 6760582 B2 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Amendment

2. The applicant has amended the following:

Claims: 5-7, 9-11, 16-18, 20-22, 27-29, 31-39 have been amended.

Claims: 4, 15, and 26 have not been amended.

Claims: 1-3, 8, 12-14, 19, 23-25 and 30 have been cancelled

Response to Arguments

3. Applicant's arguments filed 11/03/09 have been fully considered but they are not persuasive.

The applicant argues features wherein a method, apparatus and computer program product for facilitating messaging between a mobile device and a sender comprising providing a plurality of reserved routing codes for exchanging messages between senders and mobile devices; in response to receiving a message from the

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sender directed to the mobile device, temporarily associating one of the routing codes with the sender for the duration of the user session on said mobile device; including the temporarily associated routing code in the message as a reply address; and transmitting the reply message with the included temporarily associated routing code to the mobile device.

4. Before addressing the applicant's arguments, the examiner would like to clarify the position taken with respect to the applied art:

Holmes discloses a system and process for allowing wireless messaging comprising a gateway having a pool of available temporary MSISDN (reserved routing codes) which assigns and creates a new, temporary and unique reply MSISDN number associated with the message before sending the message and the reply MSISDN number onto the mobile phone for the life of the message and saves the originating address with the temporary MSISDN so that when the reply comes back from the mobile phone, the destination address is matched to the sender thereby allowing the mobile phone to reply to messages without knowing the address of the original sender.

With regards to the applicant's arguments that the rejection is improper because Holmes fails to teach "transmitting the message with the included temporarily associated routing codes to the mobile device" and that the routing code as taught by Holmes is not assigned from a plurality of reserved routing codes rather it appears that each time a sender sends a message to a mobile device, the gateway rather than

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assigning a routing code from a plurality of routing codes reserved for the purpose, creates a reply MSISN anew. The examiner respectfully disagrees. Holmes discloses the gateway assigning temporary MSISDN numbers on an adhoc basis from a pool of MSISDN numbers (Column 5, Lines 46-48 of Holmes) as well as disclosing the gateway creating a new, temporary and unique reply MSISDN number associated with the reply address (Column 5, Lines 2-15 of Holmes). Therefore, each time a new sender sends a message to the mobile device, the gateway assigns/creates a new, temporary and unique reply MSISDN number from the pool of temporary available numbers for the new mapping of the new sender.

With regards to the applicant's arguments that Holmes fails to teach "replying to said received message by means of a reply function on said mobile unit" and that there is no mention of a reply function in the citation provided on Column 5, Lines 2-15 of Holmes. The examiner respectfully disagrees. Holmes discloses in the cited portion of the user of the mobile phone replying to the messages, therefore the mobile phone has a reply functionality in order for the mobile phone to be able to send a reply.

With regards to the applicant's arguments that Holmes fails to teach "wherein assignment of a routing code to said sender persists for the duration of a user session" because the citation discloses "for the life of the message" and the life of the message and the duration of the user system inherently have nothing to do with each other. The examiner respectfully disagrees. The claimed limitation was rejected under claim 8 of the previous office action. Claim 8 is dependent from independent claim 35 from the previous office action. The examiner previously cited Column 5, Lines 2-15 of Holmes

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on the claims from which claim 8 is dependent from. Holmes discloses in previously cited Column 5, Lines 2-15 of Holmes, the establishment of the session wherein the gateway creates the temporary reply MSISDN number associated with the reply address for the purpose of having the user of the mobile phone reply to the gateway using the temporary reply MSISDN and cited Column 5, Lines 55-56 discloses assigning the new temporary MSISDN for the life of the message, therefore since the purpose of using the temporary MSISDN is to establish a session for the user of the mobile device to reply back using the temporary MSISDN, the life of the message is the duration of the session.

With regards to the applicant's arguments that the rejection on claim 5 is improper and Holmes fails to teach "capturing said user's personal identifier by said instant messaging system; assigning a routing code to said senders personal identifier by said instant messaging system" and that the citation describes the assignment of individual client IDs by a LAN administrator and that the instant messaging system is not involved in any way in the assignment of the client IDs and that the assignment is permanent thus the association of the MSISDN to the client as described in the citation is permanent rather than temporary. The examiner respectfully disagrees. Claim 5 is dependent on independent claim 35 and is rejected under Holmes in view of Ogle. The examiner cited in independent claim 35 of the association of the sender's address with the temporary MSISDN so that a reply can be sent to the sender via the gateway using the temporary MSISDN. The examiner cited Column 5, Lines 30-36 to show what would have been obvious to one of ordinary skill in the art. Specifically that a sender

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having an address (permanent MSISDN assigned by the system administrator) is assigned a default ID (temporary MSISDN) tagged onto the address for the purpose of identifying the senders address to be associated with the specific temporary MSISDN so that the message can be sent back to the sender by using the temporary MSISDN.

With regards to the applicants arguments that Holmes fails to teach “returning notice of said assignment to said mobile device”. The examiner respectfully disagrees. Holmes discloses in independent claim 34 that the reply MSISDN number is sent with the message to the mobile phone and that the temporary reply MSISDN number is used to reply to the sender. In addition, Column 5, Lines 40-45 of Holmes discloses replying to messages and to transmit messages, therefore a notice is sent of the assignment to the mobile device when the mobile device receives the message with the temporary reply MSISDN.

With regards to the applicant's request for the examiner to provide documentary evidence in support of the assertion of what the prior art teaches for claims 9, 20 and 31. The examiner would like to refer the applicant to the following applications: Kunz (US Patent 5353340 herein after known as Kunz) discloses having a group of available numbers being released after alarms are configured to sound when the available numbers are all in use or almost all in use (ABSTRACT, Column 36, Lines 8-26 & Column 13, Lines 4-15 of Kunz). Donaghue, Jr. (US Patent 6256381 herein after referenced as Donaghue) discloses selecting from a pool of available DID numbers to be used to establish the call transfer and after the associated data record have been re-associated, the DID number is available for reuse. Ahmadi et al. (US Patent 6597671

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herein after referenced as Ahmadi) discloses a method suited to reusing frequency hopping patterns when the number of active base stations exceeds the number of available frequency hopping patterns wherein the system assigns a frequency hopping pattern already in use by a base station. The references provided above teaches what is well known in the art and would have therefore been obvious to one of ordinary skill in the art to incorporate the teachings of what is well known in the art to modify the invention for the purpose of improving the system by making the system more efficient which is widely known to be used in the industry.

With regards to the applicant's request for the examiner to provide documentary evidence in support of the assertion of what the prior art teaches for claims 11, 22 and 33. The examiner would like to refer the applicant to the following applications: Kunz (US Patent 5353340 herein after known as Kunz) discloses having as many subscriber numbers as there are registered automatic visitors (Column 1, Lines 54-56 of Kunz). Gisby et al. (US Patent 5940496 herein after referenced as Gisby) discloses assigning and maintaining sufficient destination numbers to account for peak traffic. The references provided above teaches what is well known in the art and would have therefore been obvious to one of ordinary skill in the art to incorporate the teachings of what is well known in the art to modify the invention for the purpose of improving the system by making the system more efficient which is widely known to be used in the industry.

5. Therefore, the argued limitations read upon the cited references or are written broad such that they read upon the cited references, as follows:

Claim Objections

6. Claim 11 is objected to because of the following informalities: Claim 11 states "delaying delivery of a message from said pending confirmation of a mobile..." Claim 11 has similar claim language as that of claim 22. Therefore, the examiner will interpret the claims to state "delaying delivery of a message from said sender pending confirmation of a mobile ..." as is stated in claim 22.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 15-19, 21, 22, 36 and 37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims state "a computer program product, the computer program product comprising a tangible medium....". The applicant has amended the specification to recite "the computer program product comprising a tangible medium ..." which was included in the original disclosure in order to overcome the 101 rejection previously given in the last office action. However, the examiner requests the applicant to amend the claims to state "a

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non transitory computer program product, the computer program product comprising a tangible medium....” in order to further clarify the computer program product as being a non-transitory medium and therefore statutory subject matter and to clarify that the computer program product is not a signal or waveform which are non statutory subject matter.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 34-35, 7, 10, 36-37, 18, 21, 38-39, 29 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Holmes et al. (US Patent 6134432 herein after referenced as Holmes).

Regarding claim 34, Holmes discloses:

The applicant claims "A method of facilitating messaging between a mobile device and a sender, the method comprising steps of: providing a plurality of reserved

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routing codes for exchanging messages between senders and mobile devices” (Column 5, Lines 46-48 of Holmes, wherein Holmes discloses incoming messages are assigned temporary MSISDN numbers on an ad-hoc basis from a pool of available MSISDN numbers (plurality of reserved routing codes)).

The applicant claims "in response to receiving a message from the sender directed to the mobile device, temporarily associating one of the routing codes with the sender for the duration of the user session on said mobile device; including the temporarily associated routing code in the message as a reply address” (Column 5, Lines 48-50 & Lines 56-57 of Holmes, wherein Holmes discloses the temporary MSISDN is stored with the source address of the internet mail and is used if the message is replied to and wherein Holmes discloses the gateway assigning the temporary MSISDN for the life of the message (duration of the user session on said mobile device) wherein when a reply from the mobile phone comes back, the destination address is matched to the internet address of the original message sender and is then used to transmit the message reply).

The applicant claims "and transmitting the reply message with the included temporarily associated routing code to the mobile device” (Column 5, Lines 2-15 of Holmes, wherein Holmes discloses the gateway creating a new, temporary and unique reply MSISDN number associated with the reply address from the pool of available temporary MSISDN numbers before sending the message and the reply MSISDN number onto the mobile phone and if the user of the mobile phone replies to this

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message, the reply MSISDN number is sent with the reply message back to the gateway which the gateway can map back onto the address of the original sender).

Regarding claim 35, Holmes discloses:

The applicant claims "The method of claim 34, further comprising: receiving a reply message from the mobile device directed to the temporarily associated routing code; and transmitting the reply message to the sender" (Column 5, Lines 2-15 of Holmes, wherein Holmes discloses the gateway creating a new, temporary and unique reply MSISDN number associated with the reply address from the pool of available temporary MSISDN number before sending the message and the reply MSISDN number onto the mobile phone and if the user of the mobile phone replies to this message, the reply MSISDN number is sent with the reply message back to the gateway which the gateway can map back onto the address of the original sender).

Regarding claim 7, Holmes discloses:

The applicant claims "The method of claim 35, wherein said step of transmitting the reply message to the sender comprises steps of: receiving a message at said mobile device from said sender, wherein said sender's personal identifier has previously been associated with a routing code; and replying to said received message by means of a "reply" function on said mobile unit" (Column 5, Lines 2-15 of Holmes, wherein Holmes discloses the gateway creating a new, temporary and unique reply MSISDN number associated with the reply address from the pool of available temporary MSISDN number before sending the message and the reply MSISDN number onto the mobile phone and if the user of the mobile phone replies to this message, the reply MSISDN

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number is sent with the reply message back to the gateway which the gateway can map back onto the address of the original sender, therefore since the user of the mobile phone replies to the message using the mobile phone, the mobile phone is using the reply functionalities on said mobile unit).

Regarding claim 10, Holmes discloses:

The applicant claims "The method of claim 35, further comprising the step of: preventing occurrence of a condition wherein different senders are associated with the same routing code" (Column 5, Lines 56-57 of Holmes, wherein Holmes discloses assigning a new temporary MSISDN for the life of the message from the pool of available MSISDN, therefore each sender is assigned a new temporary MSISDN for the life of the message and as such the system prevents the occurrence of a condition wherein different senders are associated with the same routing code).

Regarding claim 36, Holmes discloses:

The applicant claims "A computer program product, said computer program product comprising a tangible medium with computer-readable code embodied thereon said computer-readable code including code" (Column 2, Lines 55-64 of Holmes, wherein Holmes discloses the gateway comprising software to implement the methods used by the gateway).

The applicant claims "means for performing the steps of a method of facilitating messaging between a mobile device and a sender the method comprising the steps of: providing a plurality of reserved routing codes for exchanging messages between senders and mobile devices" (Column 5, Lines 46-48 of Holmes, wherein Holmes

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discloses incoming messages are assigned temporary MSISDN numbers on an ad-hoc basis from a pool of available MSISDN numbers (plurality of reserved routing codes)).

The applicant claims "in response to receiving a message from the sender directed to the mobile device, temporarily associating one of the routing codes with the sender, for the duration of the user session on said mobile device; including the temporarily associated routing code in the message as a reply address" (Column 5, Lines 48-50 & Lines 56-57 of Holmes, wherein Holmes discloses the temporary MSISDN is stored with the source address of the internet mail and is used if the message is replied to and wherein Holmes discloses the gateway assigning the temporary MSISDN for the life of the message (duration of the user session on said mobile device) wherein when a reply from the mobile phone comes back, the destination address is matched to the internet address of the original message sender and is then used to transmit the message reply).

The applicant claims "and transmitting the message with the included temporarily associated routing codes to the mobile device" (Column 5, Lines 2-15 of Holmes, wherein Holmes discloses the gateway creating a new, temporary and unique reply MSISDN number associated with the reply address from the pool of available temporary MSISDN numbers before sending the message and the reply MSISDN number onto the mobile phone and if the user of the mobile phone replies to this message, the reply MSISDN number is sent with the reply message back to the gateway which the gateway can map back onto the address of the original sender).

Regarding claim 37, Holmes discloses:

The applicant claims "The computer program product of claim 36" (see claim 36). The method claims disclosed above performs the functionalities that correspond to the computer program product claim, therefore the examiner rejects claim 37 with the same arguments provided above (see claim 35).

Regarding claim 18, Holmes discloses:

The applicant claims "The computer program product of claim 37" (see claim 37). The method claims disclosed above performs the functionalities that correspond to the computer program product claim, therefore the examiner rejects claim 18 with the same arguments provided above (see claim 7).

Regarding claim 21, Holmes discloses:

The applicant claims "The computer program product of claim 37" (see claim 37). The method claims disclosed above performs the functionalities that correspond to the computer program product claim, therefore the examiner rejects claim 21 with the same arguments provided above (see claim 10).

Regarding claim 38, Holmes discloses:

The applicant claims "An apparatus for facilitating messaging between a mobile device and a user sender comprising: a plurality of reserved routing codes for exchanging messages between senders and mobile devices" (Column 5, Lines 46-48 of Holmes, wherein Holmes discloses incoming messages are assigned temporary MSISDN numbers on an ad-hoc basis from a pool of available MSISDN numbers (plurality of reserved routing codes)).

The applicant claims "in response to receiving a message from the sender directed to the mobile device, temporarily associating one of the routing codes with the sender for the duration of the user session on said mobile device; means for including the temporarily associated routing code in the message as a reply address" (Column 5, Lines 48-50 & Lines 56-57 of Holmes, wherein Holmes discloses the temporary MSISDN is stored with the source address of the internet mail and is used if the message is replied to and wherein Holmes discloses the gateway assigning the temporary MSISDN for the life of the message (duration of the user session on said mobile device) wherein when a reply from the mobile phone comes back, the destination address is matched to the internet address of the original message sender and is then used to transmit the message reply).

The applicant claims "and transmitting the message with the included temporarily associated routing codes to the mobile device" (Column 5, Lines 2-15 of Holmes, wherein Holmes discloses the gateway creating a new, temporary and unique reply MSISDN number associated with the reply address from the pool of available temporary MSISDN numbers before sending the message and the reply MSISDN number onto the mobile phone and if the user of the mobile phone replies to this message, the reply MSISDN number is sent with the reply message back to the gateway which the gateway can map back onto the address of the original sender).

Regarding claim 39, Holmes discloses:

The applicant claims "The apparatus of claim 38" (see claim 38). The method claims disclosed above performs the functionalities that correspond to the apparatus

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claim, therefore the examiner rejects claim 39 with the same arguments provided above (see claim 35).

Regarding claim 29, Holmes discloses:

The applicant claims "The apparatus of claim 39" (see claim 39). The method claims disclosed above performs the functionalities that correspond to the apparatus claim, therefore the examiner rejects claim 29 with the same arguments provided above (see claim 7).

Regarding claim 32, Holmes discloses:

The applicant claims "The apparatus of claim 39" (see claim 39). The method claims disclosed above performs the functionalities that correspond to the apparatus claim, therefore the examiner rejects claim 32 with the same arguments provided above (see claim 10).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 4-6, 15-17, 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes et al. (US Patent 6134432 herein after referenced as Holmes) in view of Ogle et al. (US Patent 6430604 herein after referenced as Ogle).

Regarding claim 4, Holmes discloses:

The applicant claims "The method of claim 35" (see claim 35). Holmes fails to specifically disclose "wherein said messages comprise instant messages."

In the same field of endeavor, Ogle discloses:

The applicant claims "wherein said messages comprise instant messages" (Column 2, Lines 60-67 and Column 3, Lines 1-30 of Ogle, wherein Ogle discloses a system and method for enabling an instant messaging system (IMS) to use alternative message delivery mechanisms).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the invention of Holmes to incorporate the teachings of Ogle of using instant messaging system applications to use alternative message delivery for the purpose of improving the system by providing for an alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.

Regarding claim 5, Holmes discloses:

The applicant claims "The method of claim 35, wherein said step of temporarily associating one of the routing codes with the sender comprises the steps of: composing a message for the sender at said mobile device, said message including at least said sender's personal identifier in body of said message" (Column 5, Lines 15-19 of Holmes, wherein Holmes discloses the full internet address of the recipient to be included in the body of the message).

The applicant claims "sending said message to a routing code assigned to an "unlisted" function on said mobile device; receiving said message at a messaging system" (Column 5, Lines 20-25 of Holmes, wherein Holmes discloses the mobile sending the message to a gateway using a special relay MSISDN and the gateway receiving the message).

The applicant claims "capturing said sender's personal identifier by said messaging system; assigning a routing code to said sender's personal identifier by said messaging system" (Column 5, Lines 30-36 of Holmes, wherein Holmes discloses performing number map addressing wherein the each individual clients permanent MSISDN (personal identifier) is tagged with a default ID (temporary MSISDN / routing code)).

The applicant claims "sending said message to said sender" (Column 5, Lines 36-38 of Holmes, wherein Holmes discloses identifying the destination client to receive the message, therefore once the message is received sending the message to the destination client (sender) by identifying and using the routing code).

The applicant claims "and returning notice of said assignment to said mobile unit" (Column 5, Lines 40-45 of Holmes, wherein Holmes discloses using the address to be used to reply messages and to originate mobile phone messages, therefore the address will be sent to the client/mobile unit together with the message and will be used by the client/mobile unit to reply to messages sent to the client).

Holmes fails to specifically disclose "receiving said message at an instant messaging system."

In a related field of endeavor, Ogle discloses:

The applicant claims "receiving said message at an instant messaging system" (Column 2, Lines 43-67 of Ogle, wherein Ogle discloses a system and method for enabling an instant messaging system (IMS) to use alternative message delivery mechanisms).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the invention of Holmes to incorporate the teachings of Ogle of using instant messaging system applications to use alternative message delivery for the purpose of improving the system by providing for an alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.

Regarding claim 6, Holmes discloses:

The applicant claims "The method of claim 35, further comprising steps of: sending a message to said mobile device by said sender; receiving said message at said messaging system" (Column 5, Lines 20-25 of Holmes, wherein Holmes discloses the mobile phone sending messages to the gateway to be sent back to the sender).

The applicant claims "capturing said sender's personal identifier by a messaging system; assigning a routing code to said sender's personal identifier" (Column 5, Lines 30-36 of Holmes, wherein Holmes discloses performing number map addressing wherein the each individual clients permanent MSISDN (personal identifier) is tagged with a default ID (temporary MSISDN / routing code)).

The applicant claims "and sending said message to said mobile device" (Column 5, Lines 36-38 of Holmes, wherein Holmes discloses identifying the destination client to receive the message, therefore once the message is received sending the message to the destination client (sender) by identifying and using the routing code).

Holmes fails to specifically disclose "receiving said message at said instant messaging system."

In a related field of endeavor, Ogle discloses:

The applicant claims "receiving said message at said instant messaging system" (Column 2, Lines 43-67 of Ogle, wherein Ogle discloses a system and method for enabling an instant messaging system (IMS) to use alternative message delivery mechanisms).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the invention of Holmes to incorporate the teachings of Ogle of using instant messaging system applications to use alternative message delivery for the purpose of improving the system by providing for an alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.

Regarding claim 15, Holmes discloses:

The applicant claims "The computer program product of claim 37" (see claim 37). The method claims disclosed above performs the functionalities that correspond to the computer program product claim, therefore the examiner rejects claim 15 with the same arguments provided above (see claim 4).

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Regarding claim 16, Holmes discloses:

The applicant claims "The computer program product of claim 37" (see claim 37). The method claims disclosed above performs the functionalities that correspond to the computer program product claim, therefore the examiner rejects claim 16 with the same arguments provided above (see claim 5).

Regarding claim 17, Holmes discloses:

The applicant claims "The computer program product of claim 37" (see claim 37). The method claims disclosed above performs the functionalities that correspond to the computer program product claim, therefore the examiner rejects claim 17 with the same arguments provided above (see claim 6).

Regarding claim 26, Holmes discloses:

The applicant claims "The apparatus of claim 39" (see claim 39). The method claims disclosed above performs the functionalities that correspond to the apparatus claim, therefore the examiner rejects claim 26 with the same arguments provided above (see claim 4).

Regarding claim 27, Holmes discloses:

The applicant claims "The apparatus of claim 39" (see claim 39). The method claims disclosed above performs the functionalities that correspond to the apparatus claim, therefore the examiner rejects claim 27 with the same arguments provided above (see claim 5).

Regarding claim 28, Holmes discloses:

The applicant claims "The apparatus of claim 39" (see claim 39). The method claims disclosed above performs the functionalities that correspond to the apparatus claim, therefore the examiner rejects claim 28 with the same arguments provided above (see claim 6).

13. Claims 9, 20 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes et al. (US Patent 6134432 herein after referenced as Holmes) in view of MPEP 2144.06.

Regarding claim 9, Holmes discloses:

The applicant claims "The method of claim 35, wherein routing codes for assignment are recycled" (Column 5, Lines 49-53 of Holmes, wherein Holmes discloses the temporary MSISDN pool may be reused in oldest first date order). Holmes fails to specifically disclose "wherein routing codes for assignment are recycled during a user session on said mobile unit if the number of senders exceeds the routing codes available." However, the examiner contends that it is commonly known in the art that the design of most systems would include a pool of temporary routing codes to be recycled so the system can account for any blocking probability, thereby reducing the need to provide an infinite number of routing codes for every device in the system at the time of invention, it would have been obvious to one of ordinary skill in the art to modify Holmes with the teaching of well known art for making the system more efficient which is widely known to be used in the industry. The examiner has provided, as per

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applicant's request, prior arts: Kunz (US Patent 5353340 herein after known as Kunz) & Donaghue, Jr. (US Patent 6256381 herein after referenced as Donaghue) & Ahmadi et al. (US Patent 6597671 herein after referenced as Ahmadi) to show what is well known in the art.

Regarding claim 20, Holmes discloses:

The applicant claims "The computer program product of claim 37" (see claim 37). The method claims disclosed above performs the functionalities that correspond to the computer program product claim, therefore the examiner rejects claim 20 with the same arguments provided above (see claim 9).

Regarding claim 31, Holmes discloses:

The applicant claims "The apparatus of claim 39" (see claim 39). The method claims disclosed above performs the functionalities that correspond to the apparatus claim, therefore the examiner rejects claim 31 with the same arguments provided above (see claim 9).

14. Claims 11, 22 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes et al. (US Patent 6134432 herein after referenced as Holmes) in view of Salmi (US Patent 6947396 herein after referenced as Salmi) and further in view of MPEP 2144.06.

Regarding claim 11, Holmes discloses:

The applicant claims "The method of claim 10" (see claim 10). Holmes fails to specifically disclose "wherein said step of preventing comprises any of the steps of: delaying delivery of a message from said pending confirmation of a mobile user's desire to receive said message; and providing sufficient routing codes that recycling of codes is unlikely to be necessary."

In a related field of endeavor, Salmi discloses:

The applicant claims "wherein said step of preventing comprises any of the steps of: delaying delivery of a message from said pending confirmation of a mobile user's desire to receive said message" (Column 12, Lines 43-54 of Salmi, wherein Salmi discloses requesting the user to give his approval or rejection of the message before performing the action of sending or rejecting the message, therefore the delivery is delayed pending confirmation from the user).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the invention of Holmes to incorporate the teachings of Salmi of delaying the delivery pending the user's approval or rejection for the purpose of improving the system minimizing the use and consumption of battery power as well as air time.

Holmes in view of Salmi fails to specifically disclose "and providing sufficient routing codes that recycling of codes is unlikely to be necessary." However, the examiner contends, that "providing sufficient routing codes that recycling of codes is unlikely to be necessary" is extremely well known in the art, the design of most systems would include a large pool of temporary routing codes to allow for a certain amount of blocking probability, thereby reducing the need of recycling the codes and at the time of

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the invention, it would have been obvious to one of ordinary skill in the art to modify Holmes in view of Salmi with what is well known in the art for making the system more efficient which is widely known to be used in the industry. The examiner has provided, as per applicant's request, prior arts: Kunz (US Patent 5353340 herein after known as Kunz) & Gisby et al. (US Patent 5940496 herein after referenced as Gisby) to show what is well known in the art.

Regarding claim 22, Holmes discloses:

The applicant claims "The computer program product of claim 21" (see claim 21). The method claims disclosed above performs the functionalities that correspond to the computer program product claim, therefore the examiner rejects claim 20 with the same arguments provided above (see claim 11).

Regarding claim 33, Holmes discloses:

The applicant claims "The apparatus of claim 39" (see claim 39). The method claims disclosed above performs the functionalities that correspond to the apparatus claim, therefore the examiner rejects claim 33 with the same arguments provided above (see claim 11).

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Mapa whose telephone number is (571)270-5540. The examiner can normally be reached on MONDAY TO THURSDAY 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571)272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dwayne D. Bost/
Supervisory Patent Examiner,
Art Unit 2617

/Michael Mapa/
Examiner, Art Unit 2617